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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,939	12/27/2005	Tomohiro Ito	450100-04780	2370
7590 William S Frommer Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151				
01/16/2009				
EXAMINER				
LE, HUYN D				
ART UNIT		PAPER NUMBER		
2614				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/527,939

Applicant(s)

ITO ET AL.

Examiner

HUYEN D. LE

Art Unit

2614

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 7, 9, 11, 13, 15, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 is/are allowed.
- 6) ☒ Claim(s) 2, 5, 7, 9, 11, 13, 15 and 22 is/are rejected.
- 7) ☒ Claim(s) 3 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker (US 5,715,323).

Regarding claims 2 and 11, Walker teaches a headphone assembly comprising a left driver unit and a right driver unit (38, 42), a cord (34, 40) connecting the left driver unit and the right driver unit and having a first part, a second part and a third part as claimed, and a belt (28, 62, 64, 66, 28a, 62a) in which the second part of the cord is inserted (col. 3, lines 65-67 through col. 4, lines 1-5 and lines 26-32). As shown in figures 5 and 6, the belt (28, 62, 28a, 62a) has a first end and a second end, and the second part of the cord with the belt surrounding is thicker than the first part and the third part of the cord.

Walker shows a first end member (30) fixing the first part of the cord to the belt in which the first end member is provided at the first end of the belt (28, 62, 28a, 62a), and a second end member (32) fixing the third part of the cord to the belt in which the second end member is provided at the second end of the belt (28, 62, 28a, 62a).

As shown in figures 5 and 6, the length of the belt (28, 62, 28a, 62a) is shorter than the length of the cord, and the first end member (30) and the second end member (32) separate from the left driver unit and the right driver unit.

Walker shows the first part of the cord (34, figures 5, 6) which connects the left driver unit (38) and the first end member (30), the third part (40, figures 5, 6) of the cord which connects the right driver unit (42) and the second end member (32), and the first and third parts which are exposed outside of the belt and outside the right and left driver units as claimed.

Walker teaches the thickened second part of the cord is a slip stopper to inhibit the headphone assembly from slipping off a user when hung around the user's neck (col. 3, lines 28-30). Further, since the area of the middle part or the thickened second part (28, 62, 28a, 62a, figures 5, 6) of the cord touching the neck is increased or enlarged, the headphone assembly of Walker includes the characteristics as claimed.

Regarding claim 15, as broadly claimed, Walker teaches the slip prevention processing that is applied to the belt (col. 3, lines 26-30).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 5, 7, 9, 13, 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US 5,715,323).

Regarding claim 5, Walker does not specifically teach a first tube and a second tube as claimed. However, the examiner takes the Office Notice that providing a tube to cover a speaker wire or a cord is known in the art.

Therefore, it would have been obvious to one skilled in the art to provide the tubes having the internal diameter larger than the diameter of the cord for better covering and protecting the cord (34, 40).

Regarding claims 7 and 9, Walker does not specifically teach a ring provided at the first end member (30) and a hole to pass the ring as claimed. However, it would have been obvious to one skilled in the art to attach any additional ornaments at the end member (30) and to provide any structure in the end member such as a ring or a hole to pass a ring for the desired purpose of decoration.

Regarding claim 13, Walker does not specifically teach a print or ornament as claimed. However, it would have been obvious to one skilled in the art to provide any print or ornament in the flexible belt (28, 62, 28a, 62a) for the desired purpose of decoration. Further, it is obvious to provide the print or ornament which is pliable and flexible when being bent as claimed since the belt (28, 62, 28a, 62a) is a flexible belt.

Regarding claim 15, as interpreted in a different manner, Walker does not specifically disclose the slip prevention processing being applied to the belt (28, 62, 28a, 62a). However,

Walker does teach that the belt (28) enables the wearer of spectacles or the headphone assembly to suspend them from the neck (col. 3, lines 28-30).

Therefore, it would have been obvious to one skilled in the art to provide any processing to the belt (28, 62, 28a, 62a) such as the slip prevention processing for better preventing the headphone assembly from slipping off a user when hung around the user's neck

Regarding claim 22, Walker does not teach the first end member (30) including the upper and lower members as claimed. However, it would have been obvious to one skilled in the art to provide the first end member (30) which includes one piece or two pieces such as an upper member and a lower member for the same desired purpose of better holding the cord and an easy assembly.

Allowable Subject Matter

5. Claim 4 has been allowed.
6. Claims 3 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims 2, 5, 7, 9, 11, 13, 15 and 22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (571) 272-7502. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUYEN D. LE/
Primary Examiner, Art Unit 2614

HL
January 13, 2009